IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA-25-0628

CHELSEY MAE HELT,

Petitioner/Appellee,

v.

JEREMY STEPHEN GUESS,

Respondent/Appellant.

On appeal from the Montana Eighteenth Judicial District Court,

County of Gallatin

Cause No. DR-16-2025-0000164-OR

Honorable John Brown Presiding

APPELLANT'S REPLY BRIEF

Appearances:

Albert G. Jones IV
Attorney for Respondent/Appellant
Mountain & Valley Law Firm
389 S. Ferguson Ave, Suite 217
Bozeman, MT 59718
(406) 319-3024
albert@valleylawmt.com

Judd Jensen
Attorney for Petitioner/Appellee
BKBH P.C.
801 W. Main, Ste 201
Bozeman, MT 59715
(406) 585-8888
judd@bkbh.com

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA-25-0628

CHELSEY MAE HELT,

Petitioner/Appellee,

v.

JEREMY STEPHEN GUESS,

Respondent/Appellant.

On appeal from the Montana Eighteenth Judicial District Court,

County of Gallatin

Cause No. DR-16-2025-0000164-OR

Honorable John Brown Presiding

APPELLANT'S REPLY BRIEF

Appearances:

Albert G. Jones IV
Attorney for Respondent/Appellant
Mountain & Valley Law Firm
389 S. Ferguson Ave, Suite 217
Bozeman, MT 59718
(406) 319-3024
albert@valleylawmt.com

Judd Jensen
Attorney for Petitioner/Appellee
BKBH P.C.
801 W. Main, Ste 201
Bozeman, MT 59715
(406) 585-8888
judd@bkbh.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

SUMMARY OF ARGUMENT

In her Response Brief, Appellee treats the appeal as if it has anything to do with the Order of Protection keeping Appellant from contacting her. It does not. Appellant has no desire for the Court to permit contact with Appellee and he made no argument that the District Court erred in that regard. Remarkably, Appellee supports the District Court's Order of Protection as to the children by listing thirteen findings of fact—not even one of which has anything to do with potential harm to the children.

Appellee also makes a mootness argument on the Final Parenting Plan. Even though the District Court approved a Final Parenting Plan, it never modified the Order of Protection before this Appeal, meaning the offending parts of the Order were still in place when this appeal was taken and remain applicable. Also, even with a Final Parenting Plan, the children are named protected parties in the Protective Order, meaning that Appellant could not even watch his kids' tee-ball game from the stands if it were not on his parenting time. To the extent the Order of Protection goes beyond visitation, there indisputably remains a justiciable issue.

Regarding that Final Parenting Plan, Appellee attempts to skillfully sidestep her role in unilaterally drafting a "Stipulation" that the District Court accepted, over objection of Appellant, without a hearing. That "Stipulation" was misrepresented as the agreement of the parties made at mediation, even after the mediator contradicted

Appellee's version of the agreement. A motion to vacate that plan is currently pending, and Appellee's reliance on it for a mootness argument gives cause for some explanation of hers and the District Court's errors in bringing that plan to judicial approval, lest this Court also be misled into relying upon it. The matter is not moot.

ARGUMENT

I. Appellee has not rebutted the denial of due process as to Appellant's right to be heard before taking away his fundamental constitutional right to see his children.

Nowhere does the Response Brief address the extensive transcript of the TOP hearing showing that the Court was going to order supervised parenting time between Appellant and his children. *See* Appellant's Opening Brief at 9-10. Though Appellee argues in the Response Brief that nothing other than speculation supports the contention that her Notice of Respondent's Arrest impacted the District Court's judgment, any sober review of the facts rebuts that entirely. "Speculation" and "inference" are not the same thing.

The stark contrast between the conclusions blatantly apparent from the hearing transcript, *see* Appellant's Opening Brief at 9-10, and the District Court's 180-degree change in the Order of Protection as to the children, is unaccounted for if the Notice of Respondent's Arrest is ignored. The fact that the District Court sat on issuing an Order of Protection for 72 days, only to spring to action once the Notice

of Respondent's Arrest arrived on the docket, is unaccounted for. There is no reasonable conclusion other than the one proffered by Appellant.

Denying that Appellee's Notice to the District Court had improper influence on the District Court's decision to deny the due process owed Appellant is tantamount to asking this Court to exercise willful blindness to the only available inference: the District Court decided to cut off a man's contact with his children for three years unless Appellee got the parenting plan she wanted.[1] The District Court determined that it should do so based on unproven allegations and that it would do so without a hearing. This was grossly offensive to Appellant's due process rights and cannot be affirmed.

II. The Appeal is not moot.

There are justiciable issues this Court may resolve by reversing the portion of the District Court's Order of Protection as it applies to the children. Even if the Final Parenting Plan the District Court approved were proper, which it clearly was not, the extent to which the Order of Protection exceeds visitation is a matter that is untouched by the Parenting Plan, and those portions of the Order of Protection can and should be reversed.

[1] The District Court also found, in its findings of fact and conclusions of law, that Appellant had mental health issues which contributed to its judgment, though no mental health professional ever testified nor was any documentary evidence introduced to support such a finding. Order of Protection, Findings of Fact, ¶ 6. Neither the District Court nor Appellee are physicians or in any sense qualified to diagnose mental health disorders. Mental health is not a layman's wildcard that can be selectively wielded to demonize a person or deem them a threat to their children. These improper findings compounded the District Court's error in denying the due process that was denied Appellant.

While Appellant was content to avoid the hairy issues presented in the Parenting Plan case out of professional respect for Appellee's counsel, Appellee's bold reliance on that Parenting Plan for a dispositive mootness argument requires that some context be given on how the Parenting Plan was defectively entered and why it is subject to a Motion to Vacate at the present time. Though the parenting plan case is not the case currently on appeal, Appellee's reliance on it for a dispositive argument brings it squarely before this Court. The corresponding briefs and exhibits are cited for proper context.[2]

The parties mediated on September 18, 2025. The mediators produced only a one-page report stating that the mediation addressing the Order of Protection resulted in a settlement. [3] In the weeks thereafter, Appellee's counsel began sending drafts of a "Stipulated Final Parenting Plan" to submit to the District Court.[4] *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 76, Ex. A (9/26/2025 email Judd Jensen to Jeremy Guess). Appellant immediately objected that the Parenting Plan was not the subject of the mediation and no agreement had been reached concerning parenting at all. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 76, Ex. A (10/6/2025 email Jeremy Guess to Judd Jensen). An inquiry to the mediators confirmed that five points of agreement were reached, none of which included the key terms of Appellee's draft

[2] The Parenting Plan case is *Helt v. Guess*, DR-16-2025-0000112-PP in the Eighteenth Judicial District Court, before the same Judge as the instant case.
[3] The Report was filed in the docket with no stamp from the Court as the 65th document.
[4] The exchanges were with Appellant personally, as he was *pro se* at the time.

Stipulation or any visitation schedule, particularly the step-ladder graduated visitation schedule with various hurdles involving medical evaluations. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 76, Ex. A (9/18/2025 email Stacey Herries to Jeremy Guess). Appellee conceded that the draft Stipulation only reflected what she thought or believed was agreed to at mediation. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 76, Ex. A (10/6/2025 email Judd Jensen to Jeremy Guess). The mediator did make Appellee aware that the scope of agreement of the mediation was limited and did not include her visitation schedule. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 76, Ex. A (10/9/2025 email Stacey Herries to Jeremy Guess).

Appellee then submitted the "Stipulation" to the District Court anyway with Proposed Findings, representing that Appellant agreed to all of it at mediation but now was refusing to sign. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 67 at 3. No affidavit or any other evidence was submitted showing this to be the case—despite statutory authority clearly stating that the only way to show an agreement was made in family law mediation is a signed agreement. MONT. CODE ANN. § 40-4-305. Remarkably, Appellee noted that Appellant would oppose the "Stipulation." *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 67 at 3. Appellant did oppose, and Appellee's argument was that a contract is just evidence of an agreement made between parties, and the existence of a writing does not control the existence of an agreement. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 71 at 3. Appellee offered no evidence

whatsoever to establish the existence of the agreement, and boldly faulted Appellant for not offering evidence rebutting its existence. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 71 at 3.

The District Court approved the Final Parenting Plan without a hearing, crediting Appellee's completely unsupported argument, and once again adopted her findings of fact and conclusions of law verbatim. *Compare* Proposed FOFCOL *with Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 72. The District Court's findings virtually failed to address any of the mandatory and relevant statutory best-interest factors, either explicitly or implicitly. After retaining counsel, Appellant submitted a Motion to Vacate, which has undergone a full briefing cycle and is pending. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 75-78.

The record in that case suggests that Appellee attended a mediation that was addressing the Order of Protection, then fabricated a Stipulation and submitted it to the District Court in the Parenting Plan case without any evidence supporting the existence of an agreement. At the very least, Appellee knew her "Stipulation" unilaterally invented the visitation schedule after the mediator told her what the parties had agreed to. The District Court then approved that Plan over objection and without a hearing, despite the best interest statute requiring a hearing when restricting the parent's contact with their children to anything less than "frequent and

continuing." MONT. CODE ANN. § 40-4-212(1)(l). The docket appears to reflect no hearing has **ever** been held in the Parenting Plan case.

Though Parenting Plans cannot be a matter of contract between the parties, *In re Marriage of Neiss* (1987), 228 Mont. 479, 482, 743 P.2d 1022, 1024; *In re Marriage of Mager* (1990), 241 Mont. 78, 80-81, 785 P.2d 198, 200, and are reversible on appeal if there is insufficient showing that the District Court considered the relevant best interest factors, *Woerner v. Woerner*, 2014 MT 134, ¶ 15, 375 Mont. 153, 325 P.3d 1244; *see also Collie v. Pirkle (In re M.C.)*, 2015 MT 57, ¶ 16, 378 Mont. 305, 343 P.3d 569; *In re Marriage of Wendt*, 2014 MT 174, ¶ 8, 375 Mont. 388, 329 P.3d 567; *In re Kesler*, 2018 MT 231, ¶ 20, 392 Mont. 540, 427 P.3d 77; *In re Marriage of Converse* (1992), 252 Mont. 67, 71, 826 P.2d 937, 939, there is not a shred of evidence from the Order approving the Parenting Plan that the District Court performed any analysis at all.

Asking this Court to rely on this Final Parenting Plan for a mootness argument may constitute a fraud upon this Court just as it constituted a fraud upon the District Court.[5] At the very least, there are deeply concerning aspects of the District Court's Order adopting that plan that make it inappropriate to rely on for a mootness argument. Again, Appellant tried to argue the matter here in the Opening Brief in a

[5] Relying on this Parenting Plan to establish mootness may be relying on an Order which was, itself, reached through a violation of due process.

manner that would allow Appellee to avoid this thorny eyesore, but Appellee has consciously chosen to double-down and force the issue.[6]

CONCLUSION

A man has not so much as spoken to his children on the phone since April of 2025; no hearing has ever been held in the Parenting Plan case; one hearing was held in the Order of Protection case, but the Order was infected by insufficient due process as otherwise related in these briefs; and as of the date of this Brief, Appellant has not pleaded guilty nor been convicted of any crime.[7] Appellant has been shouting into the void for almost a year and has not been met with anything resembling due process.

It is difficult to exercise restraint in describing the psychological suffocation that Appellant has suffered as a direct result of the District Court's anemic approach to these cases. The District Court reached a clear conclusion on the transcript record (in the only hearing held to date between the two cases) that Appellant would have supervised time with his children, but—after receiving notice of allegations against him regarding Appellee—forbade him contact with his children unless a parenting

[6] Appellant also gave Appellee the chance to replace the defective Order of Protection and Final Parenting Plan with ones that actually were stipulated, which would have actually mooted this Appeal. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 78, Ex. A, B. Appellant offered supervised visitation with a supervisor of Appellee's choosing who could hold Appellant's car keys during the visitation, solving literally any safety issue that could have been present. *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 78, Ex. B. Appellee declined this, then misrepresented to the District Court that Appellant had theretofore "suggested nothing other than unsupervised visitation." *Helt v. Guess*, DR-16-2025-0000112-PP, Doc. 77 at 2.

[7] Appellant had a DUI in Oklahoma many years ago, which nobody has contended is relevant here.

plan was negotiated by the Parties, essentially giving Appellee veto power over any plan she did not want. When she did make the plan she wanted, she forced it through the District Court on a false premise and insufficient legal argument, and the District Court did not catch the ruse nor follow multiple controlling statutes in approving the Order.

Due process is designed to prevent a party from being steamrolled without its day in court, and the importance of due process is heightened when dealing with fundamental constitutional rights such as parenting. This Court should vacate the portion of the Order of Protection eliminating Appellant's contact with his children.

DATED this 26th day of February, 2026.

/s/ Albert Jones
Attorney for Respondent/Appellant

CERTIFICATE OF COMPLIANCE

I, Albert G Jones hereby certify that the foregoing brief is proportionally spaced typeface of 14 points and contains 2,204 words.

/s/ Albert Jones
Attorney for Respondent/Appellant

CERTIFICATE OF SERVICE

I, Albert G Jones, hereby certify that I have served true and accurate copies of the foregoing Appellant's Opening Brief to the following on 02-26-2026:

Judd Michael Jensen
Attorney for Petitioner/Appellee
801 West Main; Suite 2A
Bozeman MT 59715
Service Method: eService

CERTIFICATE OF SERVICE

I, Albert G Jones, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellant's Reply to the following on 02-26-2026:

Judd Michael Jensen (Attorney)
801 West Main; Suite 2A
Bozeman MT 59715
Representing: Chelsey Mae Helt
Service Method: eService

Electronically signed by Shaylin Varhelyi on behalf of Albert G Jones
Dated: 02-26-2026